

## THE CITY OF CLAYTON

Board of Aldermen  
City Hall – 10 N. Bemiston Avenue  
June 25, 2013  
7:15 p.m.

### Minutes

Mayor Sanger called the meeting to order and requested a roll call. The following individuals were in attendance:

Aldermen: Michelle Harris, Andrea Maddox-Dallas, Cynthia Garnholz, Mark Winings, Joanne Boulton, and Alex Berger III.

Mayor Sanger  
City Manager Owens  
City Attorney Heinz

Mayor Sanger asked for any questions or comments relating to the June 11, 2013 minutes, which were previously provided to the Board.

**Alderman Garnholz moved to approve the June 11, 2013 minutes. Alderman Maddox-Dallas seconded the motion.**

City Clerk June Waters stated that she received edits and the minutes have been updated with the revisions.

**The motion to approve the minutes passed unanimously on a voice vote.**

### PUBLIC REQUESTS AND PETITIONS

None

### A PUBLIC HEARING AND RESOLUTION TO CONSIDER APPROVING A CONDITIONAL USE PERMIT FOR A SECOND UNIT AT 7424 BUCKINGHAM DRIVE

**Mayor Sanger opened the public hearing with regard to a request for a Conditional Use Permit for 7424 Buckingham Drive and requested proof of publication.**

City Manager Owens reported that this is a public hearing and subsequent resolution to consider granting a Conditional Use Permit to Richard Winter, owner, to allow the second floor of the detached 2-car garage to function as a second unit.

The subject property is located in the R-2 Zoning District. The second unit is subject to the issuance of a conditional use permit as contained in Article II, Section 405.330 of the Zoning Regulations, the second floor of the garage features the elements that define a second unit including a kitchen, bathroom, sleeping and living space. Permanent use of second units is limited to individuals related to the owners, or employees of the owners of the principal residence who do work on the grounds of the property. The second unit may not be rented and the owner shall record a deed restriction to this effect as part of the permit process required for a second unit.

The size of the living area of the structure is approximately 375 square feet, below the maximum allowed in the R-2 Zoning District of 1,000 square feet. The total size of the structure is approximately 850 square feet. The garage is located at the southwest corner of the site, approximately eighty feet from the street. The second unit is partially screened from the neighboring property to the south by an existing hedge row and to the east by an existing Magnolia tree.

The Plan Commission considered the request for Conditional Use Permit at their June 3, 2013, meeting and voted unanimously to recommend approval subject to the stipulations contained in Article II, Section 405.330 (outlined above), and that proof of the required deed restriction be submitted to the City prior to issuance of the Conditional Use Permit.

Staff recommends approval of the resolution granting a Conditional Use Permit for a second unit pending the receipt of/compliance for the following within sixty (60) days of approval by the Board of Aldermen or the approval is null and void:

- A copy of the deed restriction as specified in Section 405.330, outlined above; and
- All applicable building, plumbing and mechanical permits are secured and inspections conducted and approved and final occupancy granted.

The Conditional Use Permit shall stipulate compliance with all of the provisions outlined in Section 405.330 of the City's Zoning Regulations.

Mr. Richard Winter, owner, addressed the Board and inquired with regard to Section 2. 1, *"That the permit shall be granted to Richard Winter (the "Permittee"), and shall not be transferred or assigned without the prior written approval of the City of Clayton."* He wanted to know if he would be the only person assigned to the permit.

Mayor Sanger explained that he, Richard Winter, is the *"Permittee"* because he is the person who had applied for the permit.

City Manager Owens explained to Mr. Winter that the Conditional Use Permit will be issued to him, but if there was a successor then the permit could be transferred or assigned administratively if requested.

Mayor Sanger expressed that there had been some concern that previously the second unit had been used for a non-approved use, but he believes Mr. Winter now understands what those uses are as listed on the Conditional Use Permit. Mayor Sanger asked Mr. Winter if he is clear on the permitted uses of the second unit to be used only for family or persons working on the property and is not permitted to be rented in any manner.

Mr. Winter stated that he is clear and understands.

**Mayor Sanger closed the public hearing.**

**Alderman Harris moved to approve Resolution No. 13-16, to consider a request for a Conditional Use Permit for 7424 Buckingham Drive. Alderman Maddox-Dallas seconded.**

**The motion passed unanimously on a voice vote.**

**Mayor Sanger opened the Public Hearing with regard to an amendment to Chapter 405, Off-Street Parking and request proof of publication.**

**A PUBLIC HEARING AND RELATED ORDINANCE TO CONSIDER AMENDMENTS TO ARTICLE XXV (OFF-STREET PARKING & LOADING REGULATIONS), SECTION 405.3620 (OFF-STREET PARKING REQUIREMENTS) OF CHAPTER 405 (ZONING REGULATIONS)**

City Manager Owens reported that this is a public hearing and subsequent ordinance for the Board of Aldermen to consider a text amendment to the City's Parking Regulations to exempt certain sized retail establishments and certain sized theaters that are located within the Central Business District from providing off-street parking.

The amendments, if adopted, would exempt retail establishments located in the central business district not exceeding three thousand (3,000) square feet in area from the off-street parking requirements; restaurants located in the central business district that are 3,000 square feet in area or less are already exempt from providing off-street parking. Theaters located in the central business district not exceeding ten thousand (10,000) square feet in area would also be exempt from off-street parking requirements. Properties on the north side of Maryland Avenue from Forsyth Boulevard (west side) to the west city limits (Maryland Avenue retail shops) are excluded from this exemption and would have to provide off-street parking as currently required.

City staff held conversations about the proposed amendments with retailers, property owners, real estate brokers, and members of the Chamber of Commerce. In addition, the proposed amendments are listed as an initiative with the Economic Development & Vibrant Downtown Action Team, a subgroup of the C-The Future Strategic Planning Committee.

The proposed amendment relating to retail establishments is similar to the already existing exemption for downtown restaurants that do not exceed three thousand (3,000) square feet in area. While there is currently no planned theater in downtown, staff has taken this opportunity to reduce barriers of entry for a future project of this type.

The proposed amendments are of economic interest and will address the community's desire to encourage the use of vacant retail space in the downtown. Currently, there is approximately 42,500 square feet of vacant and available retail space in downtown Clayton.

The reduction of parking requirements for smaller retail tenants will help minimize some entry costs for boutique retailers interested in the Clayton market. In addition, the reduction of parking requirements for a small theater may help to entice such a project in the downtown area.

Recommendation is to approve the text amendment to the City's Parking Regulations as presented.

Alderman Boulton noted a correction in the report "...north side of Maryland Avenue from Forsyth Boulevard (not Brentwood) to the west city limits are excluded...".

**Alderman Harris introduced Bill No. 6398, an ordinance to consider an amendment to Chapter 405, Article 25, Off-Street Parking and Loading Regulations to be read for the first time by title only. Alderman Maddox-Dallas seconded.**

**City Attorney Heinz reads Bill No. 6398, an ordinance revising Section 405.3620 (Off-Street Parking Requirements) of Article XXV (Off-Street Parking & Loading Regulations) as governed by Chapter 405 (Zoning Regulations), Title IV (Land Use Code) of the Municipal Code of the City of Clayton, Missouri by exempting certain sized retail shops & certain sized theaters located in certain areas of the Central Business District from providing off-street parking, and other actions related thereto for the first time by title only.**

**The motion passed unanimously on a voice vote.**

**Alderman Harris introduced Bill No. 6398, an ordinance to consider an amendment to Chapter 405, Article 25, Off-Street Parking and Loading Regulations to be read for the second time by title only. Alderman Maddox-Dallas seconded.**

**City Attorney Heinz reads Bill No. 6398 for the second time; Alderman Harris – Aye; Alderman Maddox-Dallas – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Berger – Aye; and Mayor Sanger – Aye. The Bill was adopted and became Ordinance No. 6274 of the City of Clayton.**

**Mayor Sanger opened the Public Hearing with regard to an amendment to Chapter 425, Sign Regulations and requested proof of publication.**

**A PUBLIC HEARING AND RELATED ORDINANCE TO CONSIDER AMENDMENTS TO CHAPTER 425 (SIGN REGULATIONS) SECTION 425.120 (PERMITTED TEMPORARY SIGNS)**

City Manager Owens reported that this is a public hearing and subsequent ordinance for the Board of Aldermen to consider a text amendment to the City's Sign Regulations to allow an increase in size of temporary window signs and to extend the time period for which a temporary sign can be displayed.

Currently, the regulations allow up to a maximum six (6) square foot temporary window sign to be displayed for up to one week in any thirty (30) day period. If adopted, the amendments would allow up to a nine (9) square foot temporary window sign to be displayed in any businesses currently allowed to display such signs under this Chapter. In addition, the amendments would allow such temporary signs to remain in place for up to thirty (30) consecutive days in any sixty (60) day period. Recommendation is to approve the text amendment to the City's Sign Regulations as presented.

**Alderman Harris introduced Bill No. 6399, an ordinance to consider an amendment to Chapter 425, Sign Regulations to be read for the first time by title only. Alderman Maddox-Dallas seconded.**

**City Attorney Heinz reads Bill No. 6399, an ordinance revising Section 425.120 (Permitted Temporary Signs) of Chapter 425 (Sign Regulations) of the Municipal Code of the City of Clayton, Missouri to allow larger temporary window signs and to increase the time period for which temporary window signs can be displayed, and other actions related thereto for the first time by title only.**

**The motion passed unanimously on a voice vote.**

**Alderman Harris introduced Bill No. 6399, an ordinance to consider an amendment to Chapter 425, Sign Regulations to be read for the second time by title only. Alderman Garnholz seconded.**

**City Attorney Heinz reads Bill No. 6399 for the second time; Alderman Harris – Aye; Alderman Maddox-Dallas – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Berger – Aye; and Mayor Sanger – Aye. The Bill was adopted and became Ordinance No. 6275 of the City of Clayton.**

**AN ORDINANCE TO REVISE CHAPTER 410 (OVERLAY & URBAN DESIGN ZONING DISTRICTS) BY THE ADDITION OF ONE NEW ARTICLE, ESTABLISHING THE MARYLAND GATEWAY OVERLAY DISTRICT**

City Manager Owens reported that this is an ordinance revising Title IV (Land Use), Chapter 410 (Overlay and Urban Design Zoning Districts) of the Code of Ordinances of the City of Clayton by the addition of a new article entitled "Maryland Gateway Overlay District" that, if adopted, will establish a new overlay district.

There have been a number of hearings and discussions on this issue and after further consideration, staff is recommending the Board of Aldermen to approve these guidelines and requirements with the following changes:

1. Allow all types of office uses on the ground floor, whereas previously, only financial institutions were allowed on the ground floor.
2. Retail, restaurant and personal service uses shall constitute at least 50 percent of the gross ground floor area of a structure or structures in a development, whereas previously, only retail uses could constitute at least 50 percent of total floor area (as opposed to the ground floor only).
3. The rewording of a few subsections occurred as a result of legal counsel's ongoing review. The changes did not revise the regulatory intent of the ordinance.
4. The frontage of a building lot shall be required to be developed with a continuous building footprint (from lot line to lot line) however, the developer may exclude up to 20 percent of that frontage to create a public courtyard or public space.

In response to Alderman Boulton's question, City Clerk June Waters confirmed that there was a current copy of the ordinance on each of the Aldermen's desks.

**Alderman Harris introduced Bill No. 6391, an ordinance to revise Chapter 410, Overlay and Urban Design Zoning Districts, by the addition of one new article, establishing the Maryland Gateway Overlay District to be read for the first time by title only. Alderman Maddox-Dallas seconded.**

Mayor Sanger reminded the Board and the audience that this is not a Public Hearing, but understanding the circumstance with this item he will allow anyone from the audience to comment after first hearing from the Board.

Alderman Garnholz stated that she feels the Board has discussed this issue repeatedly and thoroughly.

City Attorney Heinz asked if this would be an appropriate time to amend the ordinance to "tie" it in with Resolution No. 13-17.

**City Manager Owens stated that this would be the appropriate time to do so.**

City Attorney Heinz suggested to add the following words to the end of the sentence of Section 2: *"...and upon passage of proposed Resolution No. 13-17."*

**Alderman Boulton moved to amend Section 410.805(3) to limit the maximum number of drive-throughs to one lane. Alderman Maddox-Dallas seconded.**

**City Clerk June Waters asked for a roll call vote; Alderman Harris – Nay; Alderman Maddox-Dallas – Aye; Alderman Garnholz – Aye; Alderman Winings – Nay; Alderman Boulton – Aye; Alderman Berger – Nay; and Mayor Sanger – Nay. 3-Ayes to 4-Nays, therefore the motion fails.**

**City Attorney Heinz reads Bill No. 6391, an ordinance amending Title IV "Land Use", Chapter 410 (Overlay And Urban Design Zoning Districts) of the Code of Ordinances of the City of Clayton, by**

**the addition of a new Article XIV entitled “Maryland Gateway Overlay District” attached hereto and incorporated by reference and other actions related thereto for the first time by title only.**

**The motion passed unanimously on a voice vote.**

**Alderman Harris introduced Bill No. 6391, an ordinance to revise Chapter 410, Overlay and Urban Design Zoning Districts, by the addition of one new article, establishing the Maryland Gateway Overlay District to be read for the second time by title only. Alderman Maddox-Dallas seconded.**

**City Attorney Heinz reads Bill No. 6391 for the second time; Alderman Harris – Aye; Alderman Maddox-Dallas – Nay; Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Boulton – Nay; Alderman Berger – Aye; and Mayor Sanger – Aye. 5-Ayes to 2 Nays, therefore the Bill was adopted and became Ordinance No. 6276 of the City of Clayton.**

**AN ORDINANCE TO CONSIDER AMENDING TITLE IV LAND USE, CHAPTER 410, ARTICLE I ENTITLED “OVERLAY ZONING DISTRICTS”**

City Manager Owens reported that this is an ordinance revising Title IV (Land Use), Chapter 410 (Overlay and Urban Design Zoning Districts) of the Code of Ordinances of the City of Clayton by the addition of a new article entitled “Maryland Gateway Overlay District” that, if adopted, will establish a new overlay district.

Chapter 410 includes a list of established zoning districts that are located within downtown Clayton. This list includes base zoning districts and overlay zoning districts. The purpose of this amendment is to add the new Maryland Gateway Overlay district to the list of overlay zoning districts identified in Chapter 410. While reviewing the existing list, staff noticed that several zoning districts were missing, therefore the missing districts were also added as part of this amendment.

This item was the subject of a workshop held on March 18, 2013 in which all property owners within the district and within 250 feet of the district boundaries were notified by letter. Modifications to the document were made based on the input received at the workshop.

A public hearing was held in front of the Plan Commission on April 15, 2013. At that hearing, the Plan Commission recommended some clarifying revisions and voted to unanimously approve the draft design guidelines and requirements. Recommendation is the ordinance.

**Alderman Harris introduced Bill No. 6392, an ordinance to amend Section 410.020 “Districts” to be read for the first time by title only. Alderman Maddox-Dallas seconded.**

**City Attorney Heinz reads Bill No. 6392, an ordinance amending Title IV “Land Use”, Chapter 410 (Overlay and Urban Design Zoning Districts) of the Code of Ordinances of the City of Clayton, by an amendment to Article I entitled “Overlay Zoning Districts” attached hereto and incorporated by reference and other actions related thereto for the first time by title only.**

**The motion passed unanimously on a voice vote.**

**Alderman Harris introduced Bill No. 6392, an ordinance to amend Section 410.020 “Districts” to be read for the second time by title only. Alderman Maddox-Dallas seconded.**

**City Attorney Heinz reads Bill No. 6392 for the second time; Alderman Harris – Aye; Alderman Maddox-Dallas – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye;**

**Alderman Boulton – Aye; Alderman Berger – Aye; and Mayor Sanger – Aye. The Bill was adopted and became Ordinance No. 6277 of the City of Clayton.**

**A RESOLUTION TO APPROVE RULES, STANDARDS, GUIDELINES AND MANDATORY DESIGN CRITERIA FOR DRIVE THROUGH FACILITIES**

City Manager Owens reported that the purpose of this text is to provide design guidelines and site design requirements applicable to drive-through facilities for financial institutions. These provisions will provide direction during the pre-consultation and planning approval process to promote, properly assess and achieve appropriate forms of drive-through development. Furthermore, they will assist in regulating the layout, built form and appearance of drive-through facilities as well as assist in mitigating any adverse impacts.

This item was the subject of a workshop held on March 18, 2013 in which all property owners within the district and within 250 feet of the district boundaries were notified by letter. Modifications to the document were made based on the input received at the workshop.

A public hearing was held in front of the Plan Commission on April 15, 2013. At that hearing, the Plan Commission recommended some clarifying revisions and voted to unanimously approve the draft design guidelines and requirements.

After further consideration, staff is recommending the Board of Aldermen to approve these guidelines and requirements with the following changes:

1. Allow a maximum of two drive-through lanes as opposed to one.
2. Require that a landscape buffer zone at least 15 feet wide shall be provided between properties developed with a drive-through facility, along each yard which abuts a residential land use; unless a noise study suggests a smaller buffer will adequately address noise impacts. In no case shall the buffer zone be less than 8 feet in width, as opposed to requiring a minimum 15 foot wide buffer. Recommendation is to approve the ordinance.

In response to Alderman Maddox-Dallas' question, City Manager Owens stated that if at any time another overlay district within the City is being considered by the Board that particular overlay district would supersede the resolution that is approved tonight.

**Alderman Harris moved to approve Resolution No. 13-17, approval of the rules, standards, guidelines and mandatory design criteria for drive through facilities. Alderman Maddox-Dallas seconded.**

**The motion passed unanimously on a voice vote.**

**AN ORDINANCE TO AMEND SECTION 350.230 - VALET PARKING REGULATIONS**

City Manager Owens reported that recently staff was contacted by a valet service on behalf of a Clayton restaurant seeking authorization to valet park patrons during the day on weekends. Current regulations do not allow for the granting of such a request. Staff has determined there is the ability to expand the valet parking zone regulations to authorize by permit valet parking during weekend day-time hours based on the limited impact it would have on vehicular or pedestrian safety.

The major change in this ordinance is adding a weekend valet parking extension to existing valet parking zones that make a separate application.

The current valet parking zone permit fee of \$100 will remain for evening zones and an additional fee of \$100 will be instituted for weekend daytime valet parking zones. We believe this fee provides

the City with replacement revenue for signage replacement, yet is not cost prohibitive for this exclusive use of a parking area.

Recommendation is to approve an ordinance amending valet parking zone permits, and adding a new permit for valet parking zones for weekend daytime use.

**Alderman Harris introduced Bill No. 6400, an amendment to Section 350.230, Valet Parking Regulations to be read for the first time by title only. Alderman Maddox-Dallas seconded.**

In response to Alderman Garnholz's question, City Manager Owens stated that Niche/Pasteria was the restaurant that requested the change and that they had not heard from any other restaurants.

Alderman Garnholz expressed her concern for other retailers whose spaces may be taken for its patrons.

Alderman Boulton asked how many spaces would be reserved for valet parking.

Alderman Winings commented that the point of the valet is to free-up on-street parking which would leave parking spaces for patrons.

City Manager Owens explained that a metered space would be reserved (marked and hooded) for valet parking and that the valets are required to park the cars in designated locations and not at other on-street parking spaces.

**City Attorney Heinz reads Bill No. 6400, an ordinance amending Section 350.230 of the Clayton City Code relating to valet parking for the first time by title only.**

**The motion passed unanimously on a voice vote.**

**Alderman Harris introduced Bill No. 6400, an amendment to Section 350.230, Valet Parking Regulations to be read for the second time by title only. Alderman Maddox-Dallas seconded.**

**City Attorney Heinz reads Bill No. 6400 for the second time; Alderman Harris – Aye; Alderman Maddox-Dallas – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Berger – Aye; and Mayor Sanger – Aye. The Bill was adopted and became Ordinance No. 6278 of the City of Clayton.**

**A MOTION TO APPROVE A LIQUOR LICENSE TO SELL 5% BEER AND NOT TO EXCEED 14% WINE AT RETAIL BY THE DRINK, INCLUDING SUNDAYS FOR ROYAL THAI CUISINE, LLC DBA THE BLUE ELEPHANT AT 7816 FORSYTH BLVD**

City Manager Owens reported that Royal Thai Cuisine, LLC is requesting a liquor license to sell 5% beer and not to exceed 14% wine at retail by the drink, including Sundays, at 7816 Forsyth Blvd. under the name The Blue Elephant.

The Police Department has completed its review of the application and supports the issuance of the requested license. The Planning and Development department has also approved the application with no objections.

The applicant has chosen not to submit a petition from surrounding property owners and first floor tenants. As a result, they are aware that this application must have a super majority vote of five



Board members in order to be approved. Staff has requested that a representative be in attendance at the meeting.

Staff recommends passing a motion to approve the liquor license to sell 5% beer and not to exceed 14% wine at retail by the drink, including Sundays.

Mr. David York, owner, addressed the Board to answer any questions that they may have.

**Alderman Harris moved to approve a liquor license for Royal Thai Cuisine LLC. Alderman Maddox-Dallas seconded.**

**The motion passed unanimously on a voice vote.**

Other

Alderman Garnholz reported that she and Alderman Winings attended a recent Clayton Century Foundation (CCF) Executive Board meeting. She reported that an installation ceremony for the *Surls* Sculpture will be held August 30<sup>th</sup>; work on the Anderson Dog Park will be completed soon and they currently have approximately 120 memberships; the recent Ice Rink Open House resulted in several concerns and feedback regarding the loss of impervious space; there are plans to upgrade the playground at Oak Knoll Park and CCF has been asked to participate in the funding.

Alderman Berger announced that he has a new grandson, William Michael Deitz.

There being no further business the meeting was adjourned at 7:50 p.m.

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Mayor

ATTEST:

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City Clerk